UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA

Ethan Radvansky, *on behalf of himself and others similarly situated*,	) Case No.: 3:23-cv-00214-TCB
Plaintiff,	)
v.	)
Kendo Holdings, Inc., d/b/a Fenty Beauty,	)
Defendant.	)

PLAINTIFF'S SIXTH NOTICE OF SUPPLEMENTAL AUTHORITY IN SUPPORT OF HIS RESPONSE IN OPPOSITION TO DEFENDANT'S MOTION FOR JUDGMENT ON THE PLEADINGS

1. On August 4, 2025, Kendo Holdings, Inc., d/b/a Fenty Beauty ("Defendant") filed its memorandum in support of its motion for judgment on the pleadings, through which it contended that the Telephone Consumer Protection Act ("TCPA") at "227(c) applies only to 'calls' and not text messages," and that the TCPA "does not define telephone 'call' to include text messages." ECF No. 43-1 at 14.

2. On September 18, 2025, Ethan Radvansky ("Plaintiff") filed his response in opposition to Defendant's motion for judgment on the pleadings, through which he argued that the TCPA at 47 U.S.C. § 227(c) applies to text messages, and that a text message qualifies as a call under the TCPA. *See* ECF No. 46 at 19-24.

3. On October 23, 2025, Defendant filed its reply in support of its motion for judgment on the pleadings. *See* ECF No. 49.

4. On January 13, 2026—following the Supreme Court's decision in *McLaughlin Chiropractic Assocs., Inc. v. McKesson Corp*., 606 U.S. 146 (2025), and after Plaintiff submitted his response in opposition to Defendant's motion for judgment on the pleadings—the United States Court of Appeals for the Ninth Circuit wrote:

> The key question, then, is whether the sending of this text message involved (1) "mak[ing] a[ ] call" or "initiat[ing] a[ ] telephone call" to that phone number, (2) "using an artificial or prerecorded voice." *Id.*

* * *

> We have previously held that, under *Chevron v. Natural Resources Defense Council, Inc.*, 467 U.S. 837, 104 S.Ct. 2778, 81 L.Ed.2d 694 (1984), it was "reasonable" to defer to the FCC's conclusion that the term "call" in § 227 includes a "text message." *Satterfield v. Simon & Schuster, Inc.*, 569 F.3d 946, 954 (9th Cir. 2009). Although we thus framed our holding in *Satterfield* in terms of the then-applicable deference required to be given to the FCC's construction, we think it is clear from *Satterfield*'s substantive analysis that the conclusion would be the same even in the absence of *Chevron* deference. *See Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 412, 144 S.Ct. 2244, 219 L.Ed.2d 832 (2024) ("*Chevron* is overruled."). *Satterfield* emphasized two key points about statutory construction that supported the FCC's understanding of a "call," *see Satterfield*, 569 F.3d at 953–54, and even under de novo review, those same two points support the conclusion that a "text message" constitutes a "call" within the meaning of the TCPA.

Howard v. Republican Nat'l Comm., No. 23-3826, 2026 WL 90273, at *3–4 (9th Cir. Jan. 13, 2026) (subsequently stating that "the RNC's text message was a 'call'").

5. Plaintiff therefore submits the Ninth Circuit's decision in *Howard* as supplemental authority in support of his response in opposition to Defendant's motion for judgment on the pleadings.

Date: January 14, 2026

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